

Legislative Issue Brief – Increase Reimbursement Rate for In Rem Foreclosures



Catawba County Board of Commissioner's Legislative Goal

Support an increase in the reimbursement rate for local government legal work related to in rem foreclosures

Background

When property taxes are not paid, the County at times must use the legal means at its disposal to collect. Sometimes, foreclosure on a piece of real property is the best means to collect taxes that are delinquent. This is essential in order to maintain revenue and be fair to those citizens that are paying their taxes.

One option available to local government is a mortgage-style foreclosure, which must be conducted by an attorney and is time consuming and expensive. Due to its complicated nature, the mortgage-style foreclosure is much more susceptible to being challenged. When a mortgage-style foreclosure is used by local government, all fees and attorney's fees (all hours the attorney works on the case) are allowed to be billed and collected from the proceeds of the sale following the foreclosure.

The other option available to local government is in rem foreclosure. This type of foreclosure is more cost effective and efficient than the mortgage style option. An in rem foreclosure is actually an action against the property, rather than the owner resulting in a more practical foreclosure process. This is especially true in cases where a foreclosure deal with heirs' properties. Despite its practicality, the average in rem foreclosure takes eight to nine months of staff time from start to finish. The administrative fee is limited to \$50 by State law, which does not take into consideration the amount of time spent by staff resolving a foreclosure. Given the staff time required to complete the foreclosure, the current fee does not adequately cover the cost of the process.

A fee of \$500 would be more appropriate to capture the effort required to complete an in rem foreclosure.

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